



## AUGUSTA COUNTY SERVICE AUTHORITY

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November 8, 2010

Submitted Online ([www.regulations.gov](http://www.regulations.gov))  
Water Docket  
Environmental Protection Agency  
Mailcode: 28221T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Submitted by Email ([vabaytmdl@dc.virginia.gov](mailto:vabaytmdl@dc.virginia.gov))**  
Department of Conservation and Recreation  
Commonwealth of Virginia  
203 Governor Street  
Richmond, VA 23219

**Re: EPA Water Docket ID No. EPA-R03-OW-2010-0736. Draft Total Maximum Daily Load ("TMDL") for the Chesapeake Bay; and Virginia Chesapeake Bay Watershed Implementation Plan ("WIP")**

To Whom It May Concern:

Thank you for the opportunity to comment on EPA's Draft TMDL for the Chesapeake Bay and Virginia's Watershed Implementation Plan.

The Augusta County Service Authority owns and operates nine municipal wastewater treatment plants ("WWTPs") that clean and discharge highly-treated wastewater within the Chesapeake Bay watershed pursuant to a state-issued National Pollutant Discharge Elimination System ("NPDES") permit.

We expect to do our part for the Bay restoration. In fact, three of our WWTP's have been upgraded with enhanced nutrient removal technology at a cost of \$65,000,000. For a small utility, this is a tremendous debt on our customers. Rates have been incrementally increasing since 2003 in anticipation of the needed improvements. Since 2003 and through 2012, the total sewer bills have increased 108%. Our future O&M costs are also going to increase significantly in order to operate these newly upgraded facilities. The projected electric cost increase is 6.4%, while the alum cost increase is 123%. Carbon addition will be another major expense in order to achieve the low Total Nitrogen values.

The increased usage of chemicals and energy supports VAMWA's points regarding environmental tradeoffs. The proposed TMDL does not consider cost-effectiveness, sustainability, or overall environmental benefit. By increasing stormwater and agricultural BMPs, capital costs and operation and maintenance (O&M) costs could be reduced as well as reducing green house gas emissions.

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We have significant concerns with EPA's Draft TMDL and object to EPA's threatened "backstop" actions against WWTPs. EPA currently proposes to cut Virginia's stringent nutrient wasteload allocations ("WLAs") currently set forth in Virginia's EPA-approved Water Quality Management Planning Regulation, 9VAC25-720, and Chesapeake Bay Watershed General Permit Regulation, 9VAC25-820 (collectively, the "Virginia Regulations"). EPA also threatens to cut WWTP allocations further to so-called "full backstop" levels, which would decrease the concentration basis further (3 mg/L TN and 0.1 mg/L TP at design flow) and possibly even the flow basis to past flow levels (2007 to 2009 average flow rather than design flow). This would reflect an unfair, punitive action by EPA that would do little to advance the Bay cleanup, which necessarily depends on major nonpoint source reductions because the Bay is nonpoint source dominated system with roughly 80 percent of the nutrient load attributable to nonpoint sources.

EPA is considering these potential cuts under a new EPA guidance letter on "reasonable assurance" and EPA's initial view that Virginia has given inadequate assurance that nonpoint sources (*e.g.*, agricultural sources) will reduce their nutrient loads according to plan. We disagree with EPA's initial view given Virginia's good track record of achieving nonpoint reductions. We also question whether EPA's unpromulgated reasonable assurance guidance is even legal given that operates as if EPA's previously proposed but withdrawn reasonable assurance regulation had actually been put into effect.

We understand that the Draft TMDL is fundamentally and materially flawed. These deficiencies are thoroughly documented in the comments of the Virginia Association of Municipal Wastewater Agencies, Inc. ("VAMWA"). We request that EPA fully consider and address all of VAMWA's comments, which we generally support and hereby incorporate by reference as if fully set forth herein.

In closing, what is distinctly missing from EPA's Draft TMDL is any appreciation for the major commitments very recently made by EPA and Virginia (the State's adoption and EPA's approval of the Virginia Regulations in 2005 and 2007) and the major financial commitments that local governments have made to implement those requirements including incurring significant public debt (typically with 20 to 30 year repayment terms) and constructing major new facilities (typically built to last 20 to 30 years). As an organization with a demonstrable commitment to clean water, we object to the waste inherent in EPA's threatened override of the Virginia Regulations and Virginia WIP through the Draft TMDL and its elements that relate to our WLAs.

For further information, please contact me at 540-245-5670.

Sincerely,



Kenneth J. Fanfoni, P.E.  
Executive Director

c: Mr. Alan Pollock, VA DEQ (alan.pollock@deq.virginia.gov)  
Mr. Russ Perkinson, VA DCR (russ.perkinson@dcr.virginia.gov)